IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3023 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHANUPRASAD NATHALAL MEHTA SINCE DECEASED THRO' HEIRS
Versus
STATE BANK OF BIKANER AND JAIPUR

Appearance:
M/S TRIVEDI & GUPTA for Petitioner No. 1-1/2
MR PRANAV G DESAI for Respondent No. 1-5

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 24/12/2002

ORAL JUDGEMENT

By means of this petition, the petitioner has sought for quashing and setting aside the dismissal order passed by the disciplinary authority and the order passed by the appellate authority dismissing the appeal

filed by the petitioner at Annexure "D" and "F"respectively and for a declaration that regulation no. 68(3) and 68(5) of the State Bank of Bikaner and Jaipur (Officers') Service Regulations, 1979 are arbitrary, unreasonable, unconstitutional and violative of Article 14 of the Constitution of India and principles of natural justice and with a prayer to strike down the same and for a direction to the respondent no. 1 bank to pay dues to the petitioner on account of leave encashment and direct the respondent nos. 4 and 5 to release dues of the petitioner of the remaining amount of provident fund and gratuity amount which is the legal due and payable to the petitioner.

2. The petitioner was appointed by the Bank of Bikaner Ltd., predecessor of respondent no. 1 bank as a clerk on 1.4.1947 at Ahmedabad. The petitioner was promoted as an assistant accountant in the year 1954 and held that post till 1969. The State Bank of Jaipur was merged with State Bank of Bikaner and its name was changed to State Bank of Bikaner and Jaipur. The petitioner was promoted as an officer in grade "C" on 1.1.1971. The petitioner was posted as a Branch Manager at Indore branch from 16.12.1981 and he worked till 30.3.1982. Thereafter, he was transferred to Udaipur. The petitioner was granted extension in service upto 59 years i.e. upto 31.12.1983 vide letter dated 9.9.1982. When the petitioner was working as a Branch Manager at Indore, he was charge-sheeted for misconduct not granting/conducting the bills purchased and cash-credit facilities to M/s. Radha Kishan and Co., M/s. Chaddha and Company and M/s. Laxmi Cotton company during the period from 16.2.1981 to 3.3.1982. The petitioner challenged the said orders of disciplinary authority and appellate authority before Indore Bench of Madhya Pradesh High Court by filing a writ petition. Indore Bench of Madhya Pradesh High Court vide its order dated 25.10.1969 held that recording of evidence by no stretch of imagination said to confer any cause of action on a person and accrual of cause of action in such matters depends on passing of an adverse order. It is either the place where the order is passed or the place where it is communicated, which would determine and govern the territorial jurisdiction. Certain case laws were also cited. The place where the inquiry proceedings were held is neither relevant nor decisive for determination of the question of territorial jurisdiction as neither of them constitute part of cause of action for petition. It was held that the petition was not maintainable in that Court since no cause of action either in whole or in part had occurred to the petitioner within territorial

jurisdiction of the court with the observation that the petitioner was at liberty to pursue his remedy before appropriate forum. Thereafter, this petition has been filed in this Court challenging the orders stated above.

3. According to the learned counsel for the petitioner, the petitioner was posted as Branch Manager of the respondent bank during the period from 16.2.1981 to 30.3.1982 when he was transferred to Udaipur. A charge-sheet was served on him on 8.6.1983 at Udaipur. Part evidence was recorded at Indore on various dates between 3.10.1983 to 27.12.1983. Part of evidence was recorded in the inquiry proceedings held at Indore on certain dates between 25.11.1983 and 28.12.1983 and followed by proceedings being held at Udaipur on 11.1.1984. The petitioner was retired from service on 31.12.1983, but for the purpose of disciplinary proceedings instituted against him, he was deemed to have continued. He submitted his written arguments despatched from Indore to the inquiry officer at Lucknow. The order of termination was passed by the disciplinary authority at Jaipur at served on the petitioner at Udaipur. The petitioner preferred an appeal against the order of disciplinary authority dated 8.8.84 at Jaipur. The order of dismissal of appeal was passed at Jaipur and communicated to the petitioner at Ahmedabad.

4. Heard the learned counsel for the parties and perused the relevant papers on record. The learned counsel for the respondents raised a preliminary objection to the effect that the petition is not maintainable in this Court as this Court has no jurisdiction to try the same. The learned counsel for the respondent contended that the inquiry was conducted and the order of dismissal was passed by the disciplinary authority at Jaipur and that was communicated to the petitioner at Udaipur. The petitioner filed an appeal before appellate authority at Jaipur. The appellate authority decided the appeal and information was communicated to the petitioner vide letter dated 17th December, 1984. As the petitioner had already settled down at Ahmedabad after his retirement, the information was sent to him by the letter dated 17th December, 1984. I have seen the letter dated 17th December, 1984 which is annexed as Annexure "F" to the petition which shows that the appellate authority in the proceedings held on 13.12.1984, carefully considered the record and proceedings pertaining to disciplinary action against the petitioner and submissions made by the petitioner and the appeal against the punishment of dismissal from the bank service. After due consideration, the executive

committee concurred with the findings of the inquiry authority. The conclusions made and the orders passed by the disciplinary authority were confirmed. The executive committee came to the conclusion that no point of substance had been made out in the appeal. Hence, penalty of dismissal from the bank's services imposed by the disciplinary authority was appropriate to the serious charges found proved against the petitioner. Accordingly, the penalty imposed upon the petitioner by the disciplinary authority was confirmed and the appeal was rejected. As such, it appears from this letter dated 17.12.1984 that only information has been communicated to the petitioner and that the copy of the order of the appellate authority has not been communicated at all.

6. The contention of the learned counsel for the petitioner that the order of appellate authority was communicated to the petitioner at Ahmedabad has no substance in view of the contents of the letter which show that the petitioner has been informed about the decision of the executive committee which confirmed the punishment imposed by the disciplinary authority and rejected the appeal.

7. Now, the crucial question before this Court is whether this Court has jurisdiction to entertain this petition or not. The learned counsel for the petitioner contended that the order of the appellate authority rejecting the petitioner's appeal was communicated to him at Ahmedabad and hence this Court has jurisdiction and the petitioner has rightly invoked the jurisdiction of this Court under Article 226 of the Constitution.

8. I have carefully considered this contention of the learned counsel for the petitioner, but I do not find any substance in this contention inasmuch as the division bench of Madhya Pradesh High Court at Indore referred certain authorities in order to show that either the place where the order is passed or the place where it is communicated which would determine and govern the territorial jurisdiction. Those authorities do not show that the information was communicated regarding the decision of the authority to the petitioners in those cases. As such, those authorities are not helpful to the petitioner nor they can be relied upon in this case. Secondly, in case of S.S.Mittal vs. Bar Council of India and others reported in AIR 1974, HP, 32, the Division Bench has taken a view in respect of cause of action. An advocate's name was removed from the role by the Bar Council of India at Delhi and the copy of the order was

sent to the advocate at Simla. The cause of action arises at Delhi and not at Simla. In the present case also, the order was passed at Jaipur (Rajasthan) and the information of that order was communicated to the petitioner at Ahmedabad. Mere communication of an order or information regarding the order does not give the territorial jurisdiction to a court where the petitioner has settled to reside. As such, in view of the division bench decision of Himachal Pradesh High Court, this petition is not entertainable in Gujarat High Court within which jurisdiction the petitioner was served with the information sent by the appellate authority.

11. Thus, having gone through the material on record and considering the contentions raised by the learned counsel for the parties, and the relevant authorities, I am constrained to hold that this Court has no jurisdiction to entertain the present petition wherein the orders passed by the disciplinary authority at Jaipur and communicated at Udaipur and the order passed by the appellate authority at Jaipur and the information was communicated to the petitioner at Ahmedabad. Thus, this petition has no merit and it deserves to be dismissed. Accordingly, the petition is dismissed. Rule discharged with no order as to costs. However, the petitioner is at liberty to approach appropriate forum and this judgment will not prejudice the interest of the petitioner in taking appropriate proceedings on merits.

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